

June 26, 2018



Talbot County Planning Commission
Final Decision Summary

Wednesday, May 2, 2018 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

<u>Commission Members:</u>	<u>Staff:</u>
John N. Fischer Jr., Chairman	Mary Kay Verdery, Planning Officer
Paul Spies, Vice Chairman (absent)	Miguel Salinas, Assistant Planning Officer
William Boicourt	Brennan Tarleton, Planner I
Michael Sullivan (absent)	Elisa Deflaux, Environmental Planner
Phillip "Chip" Councill	Mike Mertaugh, Assistant County Engineer
	Tony Kupersmith, County Attorney
	Carole Sellman, Recording Secretary

Call to Order—Commissioner Fischer called the meeting to order at 9:00 a.m. Commissioner Fischer stated there were three (3) Commissioners present. The Bylaws stated that a minimum of three (3) positive votes are required. If any applicant chooses, they can withdraw without penalty and come back at a later date.

1. Decision Summary Review—April 9th—The Commission noted the following corrections to the draft decision summary:

- a. Line 40, insert the word "existing" so that it reads: "There is existing language that a Town can only get the amount they were initially entitled per..."
- b. Line 45, to clarify, correct to read: "Ms. Verdery explained that: 1) notice will include the Code Compliance Officer; 2) a notice will be provided to renters stating they are in a Residential Neighborhood; 3) new licenses will expire in one (1) year; 4) renewals are up to two (2) years; and 5) all licenses expire on December 31st."
- c. Line 66, delete the word "seriousness of a need for" and insert "importance of".
- d. Line 68, insert "of requirement" so that it reads: "The Planning Commission also recommended removal of the requirement that Short Term Rentals can only be in a primary structure that exists as of the date of this Ordinance."
- e. Line 85, correct to read as follows: "The Planning Commission agreed to separate Event Venues into two categories: Event Venue, Accessory and Event Venue, Accessory to Agriculture."
- f. Line 106, correct to read as follows: "The Planning Commission recommended that for Inns no more than 2 guest rooms be permitted in detached structures and that no cooking facilities allowed in guest rooms, for inns."
- g. Line 110, correct to read as follows: "The Planning Commission recommended adding provisions that: 1) Short Term Rentals not be permitted within 500 feet of

another licensed Short Term Rental; and 2) Short Term Rentals cannot rent more than one booking party within a 7 day period.”

Commissioner Boicourt moved to approve the Planning Commission Decision Summary for April 9, 2018, the continuation meeting for April 4, 2018, as amended. Commissioner Cuncell seconded the motion. The motion carried unanimously.

2. Decision Summary Review—April 4th—The Commission noted the following corrections to the draft decision summary:

- a. Line 153, correct to read as follows: “The Planning Commission recommended adding the words “unrelated to common club events” to the Golf course and country club regulations.”
- b. Line 186, correct to read as follows: “The Planning Commission recommended the issuance of a certificate of nonconformity.”
- c. Line 189, delete the word “can” and insert “is required to” so that it reads: “the property owner is required to live in the primary and rent the accessory, but may not rent both structures to two unrelated renters.”
- d. Line 193, insert the word “area” after gross floor, and remove the “s” from towards, so that it reads: “The Planning Commission agreed with staff’s recommendation to specify that unconditioned gross floor area shall not count toward the size limit for an accessory dwelling within an accessory structure.”
- e. Line 207-208, delete this line.
- f. Line 215, correct to read as follows: “The Planning Commission recommended that Short-Term Rentals be allowed only in the primary structure that exists as of the date of this Ordinance and agreed that the parking requirements were sufficient.”
- g. Line 234, replace the word “recommended” with the word “decided”
- h. Line 235, add “also the location of” in front of “trash”, so that it reads: “The Planning Commission decided to take no action on regulations for long-term rentals and also the location of trash cans on residential lots.”

Commissioner Cuncell moved to approve the draft Planning Commission Decision Summary for April 4, 2018, as amended. Commissioner Boicourt seconded the motion. The motion carried unanimously.

3. Old Business—None.

4. New Business

- a. Sketch Major Single Lot Subdivision—John & Marianne Ell—8190 Beechley Road, Wittman, MD 21676 (map 30, grid 6, parcel 10, zoned Rural Conservation/Western Rural Conservation), Brett C. Ewing, Lane Engineering, LLC, Agent.
- b. Waivers:
 - i. Lot Size
 - ii. Street Trees

Mr. Tarleton presented the staff report for a Small Scale Subdivision to subdivide Lot 1, establish lot 2 as a buildable lot and establish Summerton Lane as a 50' wide private road right-of-way on a property located at 8190 Beechley Road, Wittman, Maryland. The applicant also requested two (2) Waivers: Lot size requirements in the RC district; and Street Trees.

Although the subdivision plat is listed as a major subdivision, the parcel is classified as a Tier IV septic tier designation that creates a private road and less than eight new lots. As such, the project meets the definition of a small scale subdivision.

Staff recommendations include:

1. Address the April 11, 2018 Technical Advisory Comments from the Department of Planning & Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District and the Environmental Planner prior to the Final Plat submittal.

Mr. Brett Ewing, Lane Engineering, LLC, appeared on behalf of the applicants, John & Marianne Ell. He stated they are requested sketch single lot subdivision with a private road along with a couple of waivers, a lot size waiver and a street tree waiver. The private road is on paper only. The condition of the driveway is compliant with the private road standards. It is a 300 acre parcel, and they plan to subdivide one single 13 acre lot with all existing structures on site. The 13 acre size needs the waiver, but the site dictates the size. They prefer not to make the lot 20 acres because the surrounding land is being actively tilled. The applicants want to keep as much agricultural activity as possible on the main parcel. Mr. Ewing reiterated they were asking for a single lot, asking for private road creation, a street tree waiver, and a lot size waiver. Planting trees along an actively agriculturally tilled property would be a negative effect on crops.

Commissioner Fischer asked for public comments; none were made.

Commissioner Boicourt moved to grant the waiver for street trees for John & Marianne Ell, Summerton Farm, 8190 Beechley Road, Wittman, Maryland 21676; Commissioner Councill seconded the motion. The motion carried unanimously.

Commissioner Boicourt moved to grant the Lot Size Waiver for John & Marianne Ell, Summerton Farm, 8190 Beechley Road, Wittman, Maryland 21676; Commissioner Councill seconded the motion. The motion carried unanimously.

Commissioner Boicourt moved to grant the sketch plan approval for John & Marianne Ell, Summerton Farm, 8190 Beechley Road, Wittman, Maryland

148 **21676, for the small scale subdivision with staff conditions, Commissioner**
149 **Councell seconded the motion. The motion carried unanimously.**
150

151 c. Resolution No. 259 and Amendment No. 1
152

153 Mr. Mertaugh presented Resolution 259 to the Talbot County Comprehensive
154 Water and Sewer Plan to upgrade the sewer service status of 12 lots from S3 to
155 S1; immediate priority service. There is also an Amendment to Resolution No.
156 259 to add a capital project for the development of the new well and treatment
157 system to the Town of Trappe. The lots are within the Town with all lots located
158 along Howell Point Road. There is already water service available to those lots.
159 However, the existing well in the Town is fifty years old so they are trying to be
160 pro-active regarding the well. The projects are time sensitive.
161

162 Brynja Booth, Trappe Town Attorney, stated the three-year average daily
163 wastewater flow is 97,000 gallons. The design capacity is 200,000 gallons per
164 day. She stated they have sufficient capacity for these lots.
165

166 Commissioner Fischer asked for public comments; none were made.
167

168 **Commissioner Boicourt moved that Resolution 259 is consistent with the**
169 **Comprehensive plan and recommended County Council approval of**
170 **Resolution No. 259 to amend the Talbot County Comprehensive Water and**
171 **Sewer Plan to reclassify lots on Howell Point Road to S-1. Commissioner**
172 **Councell seconded the motion. The motion carried unanimously.**
173

174 **Commissioner Boicourt moved to recommended County Council approval of**
175 **Amendment No. 1 to Resolution No. 259, to add a capital project for a well**
176 **and water treatment system. Commissioner Councell seconded the motion.**
177 **The motion carried unanimously.**
178

179 d. Village Zoning Maps (Village Mixed, Village Hamlet and Village Residential)
180

181 Ms. Verdery stated these are the maps which are associated with the text of
182 NextStep190 and the additions of the three village zoning districts: Village
183 Mixed, Village Hamlet, and Village Residential. The only comment staff has
184 received is a request for reconsideration of Bruceville. The request is that it be
185 reconsidered from Village Residential to a Village Hamlet or Village Mixed. But
186 by definition and character that would be inconsistent with Bruceville. The
187 Planning Commission stated they have heard the argument, but they are
188 comfortable with their initial mapping designation.
189

190 Commissioner Fischer asked for public comments; none were made.
191

192 **Commissioner Councell moved to recommend the County Council repeal**
193 **and re-enact the Official Zoning Maps of Talbot County, Maryland attached**

hereto and the digital versions incorporated herein, labeled as 1, 4, 5, 6, 10, 11, 12, 14, 16, 22, 24, 30, 31, 32, 33, 38, 39, 40, 40A, 41, 42, 43, 44, 44A, 45, 46, 47, 48, 49, 51, 55, and 56 to implement the zoning controls and regulations consistent with and pursuant to adoption of the 2016 Talbot County Comprehensive Plan. Commissioner Boicourt seconded the motion. The motion carried unanimously.

e. Chapter 190, Zoning, Subdivision and Land Development Ordinance

Ms. Verdery reviewed a few final changes with the Planning Commission:

1. Page 9 - Purpose Statement

The Purpose statement references dimensional standards. Staff added “and bulk requirements” to the statement since that was a defined term. **The Commission agreed.**

2. Page 16 - Density Calculations in the RC District

E.1.b.i. - says “... not to exceed on...”, and it should be “one”. The next sentence start with an ii and it says, “The area of private wetlands shall be estimated on the basis of the Maryland wetland maps. Correct the numbering.” **The Commission agreed.**

3. Page 25 – Master Plans for Village Planning Areas

If there is no Village Master Plan in place at the time of the application there is an opportunity to move forward as long as you provide certain information. To give guidelines as to what information should be provided, staff added the wording: “along with consideration of the elements of subsection 3 a. and b. above”. **The Commission agreed.**

4. Page 25 - Site Design and Architectural Standards

Staff recommended to strike the first part of the first sentence and start with, “The approving authority shall be guided by the following site design requirements and guidelines.” **The Commission agreed.**

5. Page 29 – Structure Height Limitations, Table II-12

Staff proposed to add under Grain elevators, “Minimum setbacks for new grain elevators on parcels with an existing grain processing, drying and storage use shall be 100 feet.”

Commissioner Councill felt once the Special Exception was approved then any new grain elevators which were not closer to the property line than

existing elevators should be allowed to be constructed without needing a variance. Ms. Verdery explained any new land use would have to go through the special exception. After discussion it was decided to return to this issue later.

6. Page 40 - Comprehensive Rezoning

Staff recommended to take out the old growth allocation numbers and just use the word acreage. **The Commission agreed.**

7. Page 145 - Event Venue, Accessory

Ms. Verdery stated that, as written, Section 33.11 A. 1. was very broad and would allow events to occur in places not intended. To narrow the options, the following language is proposed: “hotel/motel, inn, golf course and country club or marina” use. There was a discussion regarding educational institutes and facilities such as MEBA and Phillips Wharf. Commissioner Fischer stated a place needed to be found for MEBA. Ms. Verdery suggested using the terminology “private educational institutions”. **The Commission agreed.**

Break 10:35; Reconvene 10:52

Commissioner Fischer stated that he and Commissioner Boicourt were not comfortable with private education institutions being used as event venues. Ms. Verdery stated they would have to go through the site plan and special exception process. The Commission was more comfortable knowing the Board of Appeals would have to review an application for Event Venue, Accessory. **The Commission agreed.**

8. Discussion regarding letters received from the public

Eastern Shore Vacation Rentals (ESVR) letter:

Under Board Conditions, Restrictions and Limitations for the issuance of new licenses (Section 63.2 H.6), ESVR felt this has the potential to dramatically change licensing. Ms. Verdery stated that any conditions, restrictions and limitation have to be reasonably related to the impact. For example, if the pool is closer to the property line and causing noise, there can be a condition not to use the pool after 10 pm. Commissioner Fischer asked whether a condition that required putting up a fence would be a cause for concern. Ms. Verdery said it would only be required if it is related to an impact. If there is no impact there should be no requirement or condition.

Section 33.20.c.3. related to short-term rental operating guidelines was read by the Commission and screening of short-term rentals was discussed. If the setbacks are met, no screening would be required. **The Commission agreed**

286 **to change the screening language to clarify that screening shall apply to**
287 **outside areas intended for use by short-term tenants.**
288

289 The Planning Commission stated that the 500 foot setback will not affect
290 current licensees as long as they remain up to date with renewing their
291 license(s) (Section 63.2E.). This will only affect people applying for new
292 licenses. **The Commission agreed to keep the 500 foot setback between**
293 **Short Term Rental properties.**
294

295 The ESVR letter suggested a 3 night minimum stay. **The Planning**
296 **Commission agreed with a 3 night minimum stay for all short-term lease**
297 **holders.**
298

299 The Short Term Rental Board will have 5 permanent members: an attorney, an
300 owner of a short term rental, a member of community or civic association
301 from a community containing a short term rental, and other persons having
302 knowledge or interests relative to the board's functions (Section 63.1). The
303 ESVR letter suggested also having a realtor and someone from the industry.
304 **The Planning Commission made the decision to replace the short-term**
305 **rental owner with a vacation management specialist.**
306

307 Section 33.20.B. states an accessory structure may not be used "as sleeping
308 quarters" in conjunction with a short term rental.
309

310 **The Haas' letter:**
311

312 Mr. & Mrs. Haas recommended to include the similar language for short-term
313 rentals that exists in Section 190-33.C for Bed & Breakfasts: permit short-
314 term rentals in the Critical Area only in a principal dwelling existing as of
315 August 13, 1989, with the requirement that enlargement of the principal
316 dwelling may not exceed 50% of the gross floor area existing as of August 13,
317 1989. As an alternative, the Commission could treat any short-term rental as a
318 special exception that requires notice to the Critical Area Commission (CAC)
319 under Section 190-54.3. Ms. Verdery stated she had contacted the CAC in
320 regards to the original language and she is still awaiting their response. **The**
321 **Commission did not recommend these changes to the draft.**
322

323 The Haas' letter suggested that inspections need to be completed by qualified
324 County building inspectors. Ms. Verdery stated this language can be inserted
325 into the draft. **The Commission agreed.**
326

327 The Haas' letter suggested having a monitored fire/carbon monoxide alarm.
328 Staff noted that monitored carbon dioxide detectors are not required by any
329 laws. **The Commission did not recommend this addition to the draft.**
330

The Haas' letter asked that renewal applicants comply with the same notice procedures as new licenses. Staff responded they currently have the same notice for renewal and new licenses.

Sarah Eastman's Letter:

No new recommendations noted.

The DeMarco Letter:

Short-term rentals in the Critical Area - the Commission previously decided they do not agree.

Notice of short-term rentals – both renewals and new short-term rentals require the same notifications.

Letters Regarding Noise:

There were six form letters received, one with an additional comment.

Leslie Steen, in Section 29.4. of the draft, suggested applications including outdoor amplified music should include a noise compliance plan that contains a means for continuously monitoring the approved level of music and hours of such music. Ms. Verdery stated if that language was added, she would suggest striking "the approved level", because if we would monitor anything it would be level and hours.

The Commission asked Ms. Steen what the cost was for the monitor she had described previously. Ms. Steen stated the cost was under \$1,000. She stated the owner would be responsible for purchasing and setting up the equipment, maintaining it, monitoring the site, taking the readings to the County on a flash drive, and certifying they had not been tampered with.

Commissioner Councill asked to clarify continuous electronic monitoring. Ms. Verdery stated it is only for uses in the VM zone. It could be used in other districts if problems arise in the future. **The Planning Commission recommended continuous monitoring equipment to be implemented in the Villages an hour before and an hour after permitted hours.**

Mr. Geary's Letter:

Mr. Geary requested notification to properties within 1,000 feet for a special exception application for restaurants, bars and nightclubs with outdoor events. He also requested that the 15 day notice change to 30 days. Ms. Verdery pointed out a notice to property owners within 1,000 feet would receive a

notice for the TAC Meeting. **The Commission agreed to change the notification to 1,000 feet, the same as short-term rentals.**

9. Additional discussion

Ms. Verdery said in Section 190.53 of the draft, the table of Development Review Authority, pg 205, under short-term rental license there is a P for the Board of Appeals. The P should be changed to an A.

Grain Elevators - Commissioner Councill agreed to leave the special exception process as it stands, and the minimum setback to be decreased back to 100 feet. **The Commission agreed.**

Commissioner Fischer wanted clarification that Inns would serve food to Inn patrons only. Ms. Verdery stated it was defined: "Contain no more than 10 guest rooms occupied on a transient basis where, for compensation, lodging, bath, and meals are provided for not more than 30 guests".

Commissioner Fischer asked if the Commission wanted to take the field on TDRs. Commissioner Councill stated the standard TDR program as it exists will not work in the County because we do not have receiving areas. Without a receiving area, the only way TDRs could possibly be implemented is if, for example, someone owned two farms and wished to shift development rights from one to the other. Commissioner Councill suggested the Commission express their support of a TDR program on a small scale, in the same zoning district, among lands in the same ownership.

10. Discussion of County Council issues:

Staff and the Planning Commission discussed the specific issues the County Council wanted to discuss at the upcoming work session:

Short-term rentals; noise concerns and enforcements items - The Planning Commission addressed this by adding a 500 foot separation requirement and three day minimum stay with the Short Term Rental Review Board as the approving authority.

Event Venues – The Planning Commission addressed concerns by changing the land use from a permitted use to a special exception and making it accessory to agricultural or specific types of commercial uses which already have impacts of parking, traffic, etc.

Noise –The Planning Commission addressed concerns by requiring a Noise Compliance Plan with noise monitoring for restaurants with outdoor music and event venues.

Landscape Maintenance – the County Council felt uneasy that a landscape contractor could be larger than a cottage industry. The Planning Commission felt landscapers start small and grow larger; this is a great stepping stone. Ms. Verdery stated there are standards to meet in the draft regarding number of employees, number of vehicles, and hours of operation.

Growth Allocation – the County Council did not want a municipality that had used all of their growth allocation to then be able to use all of County's. The draft separates it so that they could only get up to the first half.

Junkyards – Section 33.22 of the draft, storage of inoperable and unregistered vehicles states that on a property less than 5 acres, a property owner may have 2 vehicles stored outside. Any additional vehicles are required to be contained in an enclosed building. On four acres or more a property owner may have 4 vehicles outside and any additional vehicles would require screening from neighboring properties. A property owner could have an entire junkyard behind a fence. Members of the County Council did not support the existing language. **The Planning Commission recommended 2 vehicles can be stored outside and the rest in an enclosed building on a residential parcel regardless of the size of a parcel.**

Commissioner Fischer asked for public comments; none were made.

Commissioner Cuncell moved to reconsider the Motion regarding Chapter 190, Zoning, Subdivision and Land Development Ordinance of April 9, 2018. Commissioner Boicourt seconded the Motion. The Motion carried unanimously.

4. Discussions Items

5. Staff Matters

- a. Mr. Salinas stated they are moving forward with the Working Waterfront. The Consultant will be here for three meetings. The first meeting will be May 16, 2018 at 10:00 a.m., 215 Bay Street, Easton. Bill Boicourt agreed to be a member of the steering committee for the project.

6. WorkSessions

7. Commission Matters

8. Adjournment–Commissioner Fischer adjourned the meeting at 12:15 p.m.